IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

APPEAL FROM ORDER NO.983 OF 2003
IN
S.C.SUIT NO.75 OF 2002

Siddhivinayak Oudyogik Vasahat).. Appellant

versus

Smt.Laxmibai B.Tulsiram Naik & another).. Respondents

Mr.R.M.Hardas with Mr.P.J.Joshi for the Appellant.

Mr.R.A.Thorat with Mr.M.M.Sathaye for Respondent No.1.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 2ND NOVEMBER 2004

P.C. :

. The Appellant who is the Plaintiff before the trial Court had sought specific performance of an agreement dated 25th August 1990. The trial Court has refused temporary injunction which the Appellant had sought for. The trial Court has come to the conclusion that the Defendants are the owners of land admeasuring 41 hectares and 10 ares. The trial Court has concluded that the agreement of 25th August 1990 on which basis the suit has been filed is unregistered and not properly stamped. As rightly pointed out by Mr.Thorat appearing for Respondent No.1, the document of 25th August 1990 cannot constitute agreement as it is not been signed by the Appellant. At best this document may be declaration

signed by the Defendants but it cannot prima facie constitute agreement. Therefore, in my view, temporary injunction sought on the basis of such document which according to the Plaintiff is agreement of sale, cannot be granted.

2. In view of the above, Appeal dismissed.

3. In view of the disposal of the Appeal From Order, nothing survives in Civil Application No.1414 of 2003 and the same is disposed of accordingly.